IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

WP(C).No. 26614 of 2007(R)

PETITIONER:

SIDDIQUE ,S/O. KASMI,
MULLANJERY HOUSE,
P.O.THEKKAN KUTTUR, TIRUR,
MALAPPURAM DISTRICT.

BY ADV. SRIC.M.MOHAMMED IQUABAL

RESPONDENT:
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1. THE TAHSILDAR,TIRUR.

2. THE DISTRICT COLLECTOR,MALAPPURAM.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 26614 OF 2007
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Dated this the 14th day of September, 2007

J U D G M E N T

Ext.P5 is an order passed by the 2nd respondent exercising his powers under Rule 27 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act. It is stated that, based on this order, proceedings were initiated against the autorickshaw in question, which is alleged to have been used for the unauthorised transportation of river sand.

2. According to the petitioner, it was on the basis of a valid permit that the sand was transported. Petitioner also submits that Ext.P4 is a mass representation submitted before the District Collector long prior to the passing of Ext.P5. But despite these materials, on the mere allegation that the petitioner did not produce any evidence, finding has been entered into against him.

3. Since the order does not reflect consideration of the permit or Ext.P4, I am inclined to direct reconsideration of the matter. That apart, I also notice in the order that the value of the autorickshaw has been fixed at Rs.35,000/- and penalty of Rs.25,000/- has also been imposed on the petitioner. Though provision for realisation of value of the vehicle and imposition of the penalty is intended to have a deterrent effect on the defaulters and the value and penalty fixed is far disproportionate to the offences made out. Therefore the 2nd respondent shall consider the entire matter including the extent of value to be fixed and the penalty to be imposed.

4. Accordingly, Ext.P5 will stand quashed and fresh orders shall be passed with notice to the petitioner, as expeditiously as possible, at any rate within three weeks from the date of receipt of a copy of this judgment. In the meantime, if the petitioner so desires, he may move the District Collector, in which event, it is for the District

collector to consider the application and pass orders thereon.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp